

California Regional Water Quality Control Board
North Coast Region

CLEANUP AND ABATEMENT ORDER NO. R1-2001-94

FOR

DSL SERVICE COMPANY

Sonoma County

The California Regional Water Quality Control Board, North Coast Region (hereinafter Regional Water Board), finds that:

1. The DSL Service Company (the Discharger), whose mailing address is P.O. Box 6030, Newport Beach, California, developed the Mission Arbors commercial development, located at 100 Mission Street, Santa Rosa, California (the Development). The Development encompasses a 5-acre lot (APN 032-190-011, 032-190-012, 032-190-013 and 032-190-014), on which a building occupied by Downey Savings and Loan has been constructed. The remainder of the parcel will be divided into lots and will be sold for construction of commercial buildings. The Development also includes roads, curbs, sidewalks, a public paved pathway, and a 24-inch storm-drain outfall. The Development is bounded by Highway 12 to the northwest, Mission Boulevard to the southwest, and Santa Rosa Creek along the southeast edge of the property. The Development was regulated under a Waiver of Waste Discharge Requirements/Clean Water Act Section 401 Certification (Waiver/Certification), issued by the Regional Water Board on May 22, 2000.
2. On May 10, 2001, the Regional Water Board received a complaint regarding the construction of a linear dirt pathway along Santa Rosa Creek, beginning at the Mission Boulevard bridge crossing, and extending the length of the Development. According to the complainant, the trail had been constructed below the top of bank, some riparian vegetation had been removed, residual slash and debris had been placed along the stream banks, and the trail posed a threat of discharging sediment into waters of the state. This construction of this trail was not included in the application for the Waiver/Certification and was not authorized in the Regional Water Board Waiver/Certification.
3. On May 11, 2001, Regional Water Board staff responded to the complaint, and conducted a site inspection of the Development site. During the inspection, staff observed a newly constructed trail along the Development. The newly created dirt trail was built within 4-5 feet of the wetted low-flow channel. Significant amounts of erosive soils, slash and debris remain along the trail, and threatened to discharge to Santa Rosa Creek. The trail had an average width of 3 to 4 feet. Some of the dirt and debris had been discarded into Santa Rosa Creek during construction. In addition, the trail construction resulted in

riparian vegetation removal along the banks of Santa Rosa Creek, including some mature willow trees. The trail construction involved cutting of the up-slope bank that has resulted in bare dirt cut-banks with highly erosive alluvium and fill soils. No revegetation or bank stabilization measures appeared to be implemented as part of the trail construction project.

4. The on-site conditions resulting from the trail construction threaten to adversely impact the water quality and beneficial uses of Santa Rosa Creek. The existence of a dirt pathway within close proximity of Santa Rosa Creek may cause chronic erosion into the creek, resulting in an impact to water quality from increased suspended sediments entering the water and resulting increases in turbidity. The threat to water quality of Santa Rosa Creek will continue unless and until the trail is removed and the impacted area is re-established to its pre-trail condition. Without a complete removal of the trail and restoration of the disturbed area to its pre-existing condition, the threat to the water quality of Santa Rosa Creek remains.
5. As a tributary of the Laguna de Santa Rosa, the beneficial uses of Santa Rosa Creek, as designated in the Water Quality Control Plan for the North Coast Region, include:
 - a. Municipal and domestic supply
 - b. Agricultural supply
 - c. Industrial supply
 - d. Water contact recreation
 - e. Non-contact water recreation
 - f. Groundwater recharge
 - g. Wildlife habitat
 - h. Fish migration
 - i. Fish spawning
 - j. Commercial and sport fishing
 - k. Warm freshwater habitat
 - l. Cold freshwater habitat
6. The Discharger has discharged waste into waters of the state in violation of the Waiver/Certification as it discharged dirt and debris while constructing the trail. The Discharger has also caused or permitted, causes or permits, or threatens to cause or permit waste to be discharged or deposited where it is, or probably will be discharged to waters of the state and creates, or threatens to create, a condition of pollution or nuisance. The debris and dirt remaining from the construction of the trail threaten to discharge into Santa Rosa Creek, which may create a condition of pollution or nuisance as defined in Section 13050 of the California Water Code.

7. This enforcement action is being taken for the protection of the environment and, therefore, is exempt from the provisions of the California Environmental Quality Act (Public Resources Code, Section 21000 et seq.) in accordance with Section 15321, Chapter 3, Title 14, California Code of Regulations.

THEREFORE, IT IS HEREBY ORDERED that, pursuant to California Water Code Sections 13267(b) and 13304, the Discharger shall:

1. Immediately take action to remove the dirt trail in its entirety, and restore the affected streambank to its pre-trail condition. Remediation measures shall include removing all slash and debris; recontouring cutbanks and the streambank to natural slopes; revegetation with native riparian vegetation; and placement of erosion control measures. All work shall be completed no later than September 20, 2001.
2. Submit a report to the Regional Water Board on or before October 15, 2001 that describes the removal of the trail, and the remediation activities undertaken as required in Provision 1 above.

Ordered by _____

Susan A. Warner
Executive Officer

August 29, 2001